

## EDITORIAL

# SOCIAL WORK IN THEORY AND PRACTICE OF RESTORATIVE JUSTICE

The honour of becoming guest editors of this journal is closely connected with collaborating in a European action research project. The EU-funded project "Restorative Justice at post-sentencing level; supporting and protecting victims" was carried out in Schleswig-Holstein, Germany and in several partner countries, among them Croatia, between 1st January 2013 and 31st December 2014. The lead partner of the consortium was the Schleswig-Holstein Association for social responsibility in criminal justice; offender support and victim support, a non-governmental organisation which managed and coordinated the project. The main task of the lead partner is to form a national and international network and to coordinate its activities optimising a fruitful exchange of knowledge and practical application.

Essentially the project aimed at implementing Restorative Justice (RJ) as a philosophy for institutions and their staff relying traditionally on punishment and/or resocialisation/rehabilitation and collecting experiences with concrete Restorative Justice-procedures applied at the post-sentencing phase. In doing so the focus was on developing mechanisms which allow informing victims of severe victimisations about these possibilities and for them to take part in Restorative Justice-procedures while being protected and supported at the same time.

The project refers to Directive 2012/29/EU of the European Parliament and of the Council [of the European Union] of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, in particular Article 12. This Directive was adopted after a long process of discussion and replaces the former Council Framework Decision 2001/220/JHA.

Among others it is the aim of the Directive to make sure that victims will not be re-victimised in the context of a Restorative Justice procedure and that they will be sufficiently protected against secondary victimisation. However, there has been a lot of debate whether a so-called proactive approach might be more suitable for victims than a protective approach, which can lead to paternalism and not offering the victims all available options. Research in Belgium and Canada (cf. Wemmers & Van Camp 2011) found that victims prefer being asked what they want instead of experts deciding upon their best interests.

It is the main idea of this project that all participants in an offence are entitled to access a Restorative Justice offer. The offer must meet the standards and must assure that the victim will not be secondarily victimised [while at the same time

legal safeguards for offenders are also obeyed]. To achieve the project goals in practice the project aims at developing “mechanisms” which enable victims of crime to decide for themselves whether to participate or not and at which point in time. [In Schleswig-Holstein and other project regions Restorative Justice-procedures are hardly known in the general public which implies that people who are willing to participate in this approach have few opportunities to realise that. That shall be changed in future by raising more public awareness.]

The Law Faculty of the University of Zagreb was the Croatia partner in the consortium consisting of 20 organisations from eight European countries. England was represented by Thames Valley Probation, Thames Valley Partnership and Victim Support. Our Spanish partners were from Catalonia (General Direction for Probation and Juvenile Justice of Catalonia and AGI Foundation) and the Universities from Lisbon in Portugal and from Leuven in Belgium also took part as well as the Probation and Mediation Service of the Czech Republic and an Association of Altruists (NGO) from Bosnia-Herzegovina. Furthermore, two transnational organisations, the European Forum for Restorative Justice and the CEP (Confederation of European Probation) - the European organization for probation - contributed to the project. In addition to the lead partner other participants from Germany were Kiel University of Applied Sciences, Evangelical Lutheran Church in Northern Germany, the street paper Hempels (NGO), the victim support organisation White Ring (NGO), the adult prison of Kiel and the juvenile detention centre of Schleswig as well as the Ministry of Justice of Rhineland-Palatinate and the Max-Planck Institute for international and foreign criminal law (Freiburg).

Countries such as Belgium, England and Spain are more experienced in using post-sentencing RJ-procedures, especially related to imprisonment. The positive experiences from these countries and scientific findings regarding the successful implementation of RJ in serious crimes have encouraged us to promote the application concerning this specific phase during the proceedings within the criminal justice system. Despite a rather different level of experience in working with victims and restorative justice all partners face similar challenges.

All contributions of this volume are related in one way or another to the above mentioned project. Some of the following articles focus more on theoretical aspects in this field while others inform about specific practices in different European regions.

Leo van Garsse from the University of Gent, a former mediator based in a Belgium prison, shared with the project members his experiences at the kick off conference in Barcelona. He makes it clear that entering the prison world implies certain challenges and dangers for Restorative Justice-activists. Basically the prison structure is in contradiction with the core ideas of RJ relying on social peace, voluntariness, ownership, empowerment, impartiality, democracy and so forth.

From his Belgian background, a country which was the first to use the term “restorative prison” which means to transform an institution relying on the delivery of pain into an institution on offenders’ journeys to righting wrongs and desisting from committing offences after their re-entry into society he does not reject the idea but depicts the obstacles clearly.

Hansjörg Schlechter from Neustart - an Austrian association, which has been active in judiciary social work for more than 50 years - was not institutionally involved in the project but accompanied our work with high interest and from a narrow communion. He reports on a practical RJ innovation in the Austrian criminal justice system aiming at reducing the number of young prisoners and maintaining their connections/bonds/links/ties within the free world despite having committed serious offences. They use the SoNeCo conferencing method (Social Net Conferencing) - which is classified by RJ theorists as one of the fully restorative methods - to avoid remand imprisonment or to release prisoners earlier than usually intended. This is achieved by involving communities for care of the offender – and partly also victims – who develop a plan to guarantee that s/he works on her/himself, makes up for the damage and takes responsibility including necessary steps for the healing of the victim(s).

Emerson, Carrington-Dye, Dix and Grammer represent the British partners of the project. Like in Belgium there is some history already of attempts to introduce RJ in prisons. During the two year period they try to systematically implement/promote victim-initiated RJ processes. It turns out it is difficult to get the message through that such an opportunity exists and to get in contact with the victims who are interested in such a dialogue. If that happens the outcome is rated very favourably nearly every-time. Getting in touch with victims is a common challenge in all participating countries. Therefore, the European dimension is probably more important concerning this issue than other aspects. While German colleagues were impressed by the professional public relation work in England the British team considers releasing a newspaper advertisement for this purpose.

Wager, O’Keeffe, Bates and Emerson compare data from three different restorative justice (RJ) initiatives; victims could choose between having a conference, getting a letter of apology and having the offender participate in victim-empathy work. In a way their study follows the initial conferencing project evaluated by Shapland et al. (2008) now offering victims two additional alternatives. The authors focus on the risk for reconviction and find statistically significant differences between expected and actual reconviction rates for all three interventions. The best effects regarding prevention of offender recidivism are still achieved by conferencing but the other two options also have a positive influence on offenders.

Our Spanish project partners Clara Álvarez, Marçal Baig, Clara Casado, Ana Gómez, Mercè Llenas, Montserrat Martínez, Sònia Muñoz and Albert Rodríguez

report on a process of critical assessment and revision of an existing victim-offender-mediation programme for juvenile and adult prisoners. Due to the institutional framework favouring a victim-protective approach there were a lot of requirements for victims turning the initial balanced approach into a factual offender-oriented service. One example of inadequate victim protection is the imposition of a restraining order impeding a victim's request for a direct dialogue from being implemented. In cooperation with a court the project was able to transform the practice into a proactive approach to serve victims' and offenders' needs alike.

Jelínek and Matoušková from the Probation and Mediation Service of the Czech Republic analyse the victim perspective in criminal proceedings with a focus on post-sentence level. In the Czech Republic the probation service is taking care of RJ. They present the legal regulations and give four examples of varied severity of victimisation from their practice, two from pre- and two from post-sentencing stage, victim-initiated as well as offender-initiated cases.

The contribution of Lummer & Hagemann contains both theoretical reflections and presents pilot projects invented in Schleswig-Holstein. Empathy is related as a core variable to the context of victimisation and offending and how it contributes to social peace and healing is revealed. Then the concept of the victim-empathy-training in prison is presented as well as some first insights on working with victim groups. Finally preliminary conclusions from the practical work and some future ideas are summarised.

**Guest editors: Otmar Hagemann and Mladen Knežević**

*REFERENCES*

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